[redacted]

FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER, AND CONSENT
NO. 2019061076001

TO: Department of Enforcement
Financial Industry Regulatory Authority (FINRA)

RE: Barclays Capital Inc. (Respondent)
Member Firm
CRD No. 19714

Pursuant to FINRA Rule 9216, Respondent Barclays Capital Inc. submits this Letter of Acceptance, Waiver, and Consent (AWC) for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against Respondent alleging violations based on the same factual findings described in this AWC.

I.

ACCEPTANCE AND CONSENT

A. Respondent accepts and consents to the following findings by FINRA without admitting or denying them:

BACKGROUND

Barclays Capital became a FINRA member in October 1987. The firm is headquartered in New York, New York and has 16 branches with approximately 3,000 registered representatives. Barclays Capital's business includes options and equities trading on behalf of itself and customers, underwriting, and market-making.

In May 2018, FINRA, Cboe BZX Exchange, Inc., and Miami International Securities Exchange, LLC censured and fined the firm $400,000 for failing to report options positions to the Large Options Positions Reporting (LOPR) system in over 310,000 instances and inaccurately reporting options positions to the LOPR in 2.7 million instances between January 2010 and December 2015, and imposed an undertaking requiring the firm to correct supervisory and technological deficiencies.

In January 2014, FINRA censured and fined the firm $750,000 for failing to report positions to the LOPR in over 1.47 million instances, submitting inaccurate reports in over 700,000 instances, exceeding applicable position limits in four options, and failing to establish and maintain a supervisory system reasonably designed to achieve compliance with LOPR requirements and applicable position limits between January 2010 and March 2013.[1]

[1] For more information about the firm, including prior regulatory events, visit BrokerCheck® at www finra.org/brokercheck.

OVERVIEW

From January 2011 through December 2022, Barclays Capital failed to report, or inaccurately reported, over-the-counter options positions to the LOPR in approximately 4.3 million instances in violation of FINRA Rules 2360(b)(5) and 2010. The firm also failed to establish and maintain a supervisory system reasonably designed to achieve compliance with FINRA Rule 2360(b)(5) during the same period in violation of NASD Rule 3010 and FINRA Rules 3110[2] and 2010.

FACTS AND VIOLATIVE CONDUCT

This matter originated from FINRA's OTC exercise limit review of Barclays Capital and the firm's self-reporting of three of the four reporting issues discussed below.

A. Barclays Capital failed to report, or inaccurately reported, OTC positions to the LOPR.

1. Background — LOPR Reporting

FINRA requires member firms to report large options positions to the LOPR.[3] FINRA uses LOPR information to identify holders of large options positions and to surveil for potentially manipulative behavior, including attempts to corner the market in the underlying equity, leverage an option position to affect the price, or move the underlying equity to change the value of a large option position. The accuracy of LOPR reporting is essential to FINRA's surveillance. It is particularly important with respect to the OTC options market because there is no independent source of data for regulators to review OTC options.

FINRA Rule 2360(b)(5) requires member firms to report to the LOPR each customer or firm account that, acting alone or in concert, has established an aggregate position of 200 or more option contracts on the same side of the market covering the same underlying security or index. The report must identify the account holder and the total number of option contracts for each options class comprising the reportable position and must include other information as prescribed by FINRA.

A violation of FINRA Rule 2360(b) also is a violation of FINRA Rule 2010, which requires "[a] member, in the conduct of its business, [to] observe high standards of commercial honor and just and equitable principles of trade."

2. Barclays Capital's LOPR reporting violations

From January 2011 through December 2022, Barclays Capital failed to report, or inaccurately reported, OTC options positions to the LOPR in approximately 4.3 million

[2] FINRA Rule 3110 superseded NASD Rule 3010 on December 1, 2014.

[3] The Options Clearing Corporation hosts the LOPR system and collects and disseminates all LOPR data for the U.S. options exchanges and FINRA.

instances.[4] These reporting violations stemmed from four separate coding errors, which spanned from four years to approximately eight years.

First, from January 2011 through September 2019, Barclays Capital failed to report OTC positions to the LOPR in approximately 3.6 million instances. In these instances, the firm applied aggregation logic that improperly failed to aggregate positions on the same side of the market covering the same underlying security or index if certain features of the positions, such as the strike price or expiration date, did not match.

Second, from March 2011 through April 2019, Barclays Capital failed to report Exchange Traded Fund (ETF) option positions to the LOPR in approximately 392,000 instances. These failures were caused by Barclays Capital inadvertently applying to reportable ETF option positions a suppression logic that prevented the submission of non-reportable positions.

Third, from January 2014 through October 2021, Barclays Capital failed to report OTC options positions to the LOPR in approximately 24,000 instances. In these instances, coding errors caused positions that were either booked or re-booked after the trade date to be reported with a trade date that was later than the actual trade date. As a result, positions were not reported during the time between the actual trade date and the later, incorrectly reported trade date.

Fourth, from January 2018 to December 2022, Barclays Capital failed to accurately report quantities of certain OTC option positions held in firm accounts in approximately 300,000 instances. These failures stemmed from a systems logic issue that began when Barclays Capital transitioned the LOPR submission process to a new trading software platform.

Therefore, Barclays Capital violated FINRA Rules 2360(b)(5) and 2010.

B. Barclays Capital failed to reasonably supervise LOPR reporting.

FINRA Rule 3110(a), like its predecessor NASD Rule 3010(a), requires a member firm to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. A violation of NASD Rule 3010 or FINRA Rule 3110 also is a violation of FINRA Rule 2010.

From 2011 through 2022, Barclays Capital failed to establish and maintain a supervisory system reasonably designed to achieve compliance with FINRA Rule 2360(b)(5), as described below. First, from January 2011 through September 2019, the firm's supervisory system and procedures did not include reviews to determine whether the firm properly aggregated all positions as required.

[4] An "instance" is a single failure to report, or an inaccurate report of, a reportable options position. The number of instances is determined by multiplying a given reportable position by the number of trade dates the position was not reported or reported incorrectly.

Second, from March 2011 through April 2019, the firm only reviewed the positions that it reported, and did not conduct a reasonable supervisory review to ensure that all reportable positions were, in fact, reported.

Third, from January 2014 through October 2021, the firm did not have a reasonably designed supervisory review to determine whether it reported positions with the correct trade date. Lastly, from January 2018 through December 2022, the firm did not have a reasonably designed supervisory review to determine whether it reported accurate quantities of OTC option positions held in firm accounts. As a result of these supervisory failures, Barclays Capital did not detect and correct the flawed aggregation logic, the improper suppression of reportable ETF option positions, and the coding errors concerning the effective dates and reported quantities of certain positions for over ten years.

Therefore, Barclays Capital violated NASD Rule 3010 and FINRA Rules 3110 and 2010.

SANCTIONS CONSIDERATIONS

In determining the appropriate sanctions in this matter, FINRA considered, among other factors, that Barclays Capital: (1) identified, self-reported to FINRA, and remediated the issues described in Section A.2. above concerning its erroneous aggregation logic and positions reported with either incorrect trade dates or incorrect quantities; (2) determined the number of OTC LOPR positions reported with inaccurate quantities going back to January 2018; and (3) implemented numerous enhancements to its supervision, surveillance, and governance structure concerning LOPR.

B. Respondent also consents to the imposition of the following sanctions:

- a censure; and
- a fine of $2.5 million.

Respondent agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. Respondent has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

Respondent specifically and voluntarily waives any right to claim an inability to pay, now or at any time after the execution of this AWC, the monetary sanction imposed in this matter.

The sanctions imposed in this AWC shall be effective on a date set by FINRA.

II.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

A. To have a complaint issued specifying the allegations against it;

B. To be notified of the complaint and have the opportunity to answer the allegations in writing;

C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made, and to have a written decision issued; and

D. To appeal any such decision to the National Adjudicatory Council (NAC) and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the Chief Legal Officer, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

Respondent further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

Respondent understands that:

A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA), pursuant to FINRA Rule 9216;

B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and

C. If accepted:

1. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future action brought by FINRA or any other regulator against Respondent;

2. this AWC will be made available through FINRA's public disclosure program in accordance with FINRA Rule 8313;

3. FINRA may make a public announcement concerning this agreement and its subject matter in accordance with FINRA Rule 8313; and

4. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. Respondent may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects Respondent's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party. Nothing in this provision affects Respondent's testimonial obligations in any litigation or other legal proceedings.

D. Respondent may attach a corrective action statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this statement. This statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA.

The undersigned, on behalf of Respondent, certifies that a person duly authorized to act on Respondent's behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that Respondent has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth in this AWC and the prospect of avoiding the issuance of a complaint, has been made to induce Respondent to submit this AWC.

April 13, 2023

Date

Magda Jimenez Train

Barclays Capital Inc.
Respondent

Print Name: Magda Jimenez Train

Title: Director

[redacted]

Reviewed by:

Michael J. Lohnes

Michael J. Lohnes, Esq.
Counsel for Respondent
Katten Muchin Roseman LLP
525 West Monroe Street
Chicago, Illinois 60661-3693

Accepted by FINRA:

Signed on behalf of the
Director of ODA, by delegated authority

April 18, 2023

Date

Kevin M. McGee

Kevin M. McGee
Senior Counsel
FINRA
Department of Enforcement
15200 Omega Drive, Suite 300
Rockville, Maryland 20850-3241